

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

DONALD FRY, *et al.*,

Plaintiffs,

v.

HARRISONBURG SPORTS BAR, INC.,  
*et al.*,

Defendants.

Civil No. 2:23cv107

**ORDER**

This matter is before the Court on the parties' Joint Motion for Settlement Approval (ECF No. 21) and the parties' Joint Motion to Seal the Settlement Agreement and Memorandum of Understanding (ECF No. 23) (the "Motion to Seal") (jointly, the "Motions"). The Motions were previously referred to United States Magistrate Judge Lawrence R. Leonard, pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b), for proposed findings of fact and a recommended disposition. (ECF No. 27.) On November 9, 2023, a hearing was held before Judge Leonard, and the report and recommendation was issued on December 22, 2023. (ECF No. 29.) No objections to the report and recommendation have been filed, and the time for doing so has elapsed.

The report and recommendation indicates that the parties have agreed to settle this matter, which included a claim under Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201, et seq. Prior to approving the settlement of an FLSA claim, a court must

“determine[ ] that a settlement proposed by an employer and employees . . . is a fair and reasonable resolution of a bona fide dispute over FLSA provisions.” *Lynn’s Food Stores, Inc. v. United States*, 679 F.2d 1350, 1355 (11th Cir. 1982). As discussed in the report and recommendation, when addressing approval of an FLSA settlement, the Court must consider the following factors: 1) the extent of discovery; 2) the stage of the proceedings; 3) the absence of fraud or collusion; 4) the experience of plaintiff’s counsel; 5) the probability of plaintiff’s success on the merits; and 6) the amount of settlement in relation to the potential recovery after trial. *Patel v. Barot*, 15 F. Supp. 3d 648, 656 (E.D. Va. 2014). Upon review of the report and recommendation and the Magistrate Judge’s thorough analysis therein, the Court agrees with the conclusion reached by Judge Leonard and finds that the proposed settlement reflects a fair and reasonable resolution of a bona fide dispute over the applicability of certain FLSA provisions.

The proposed settlement agreement in this case also provides for payment of attorney fees and costs in the amount of \$15,000. “[T]he FLSA requires judicial review of the reasonableness of counsel’s legal fees to assure both that counsel is compensated adequately and that no conflict of interest taints the amount the wronged employee recovers under a settlement agreement.” *Poulin v. Gen. Dynamics Shared Resources, Inc.*, No. 3:09cv58, 2010 WL 1813497, at \*1 (W.D. Va. May 5, 2010). In the Fourth Circuit, courts typically use the traditional lodestar method in determining whether the award of attorney fees was reasonable. *Id.* Having reviewed Judge Leonard’s analysis of this issue in the report and recommendation, the Court again agrees

and finds that the award of attorney fees and costs is reasonable.

Finally, the Court agrees with Judge Leonard's analysis regarding the Motion to Seal. Importantly, the report and recommendation discloses and analyzes all FLSA-related payments, placing the monetary sum of the FLSA-related settlement and attorney fees in the public record. As to the full settlement agreement, which includes the resolution of several non-FLSA claims, the parties have identified sufficient countervailing interests, as discussed in the report and recommendation, to justify maintaining confidentiality.

For these reasons, and upon due consideration, the Court hereby **ADOPTS** the Magistrate Judge's report and recommendation (ECF No. 29) in its entirety. The Joint Motion for Settlement Approval (ECF No. 21) is hereby **GRANTED**, and the parties' proposed settlement is **APPROVED**. The Motion to Seal (ECF No. 23) is hereby **GRANTED**. This case is **DISMISSED** with prejudice, with the Court reserving jurisdiction solely for the purpose of enforcement of the terms of the settlement. The Clerk is **DIRECTED** to provide a copy of this Order to all parties.

**IT IS SO ORDERED.**

February 22, 2024  
Norfolk, Virginia

/s/  
Arenda L. Wright Allen  
United States District Judge